

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 ANTHONY MICHAEL GIOIOSA,

Case No.: 3:23-cv-00058-MMD-CSD

4 Plaintiff

Order

5 v.

6 PAROLE PARDONS APPLICATION,

7 Defendants

8 Plaintiff is an inmate in the custody of the Nevada Department of Corrections (NDOC).
9 He filed a document with the court stating that he is a convicted felon, and he hired the Clark
10 County interpreter for information to register himself as a felon. However, Plaintiff cannot
11 submit address listings, and he is supposed to be getting paroled back into the community. He
12 appears to be asking the court to contact NDOC and/or the department of parole and probation
13 on his behalf to help him register as a felon. (ECF No. 1-1.)

14 If Plaintiff's intent is to seek the court's assistance in contacting the NDOC or parole and
15 probations department to register him as a felon, that is not the court's function and Plaintiff
16 must reach out to NDOC and/or the department of parole and probation on his own. If, on the
17 other hand, it is Plaintiff's intention to file a civil lawsuit, a civil action is commenced by filing a
18 complaint with the court. Fed. R. Civ. P. 3.

19 In the event Plaintiff seeks to file a civil lawsuit in this court, he must pay the \$402 filing
20 fee or if he is unable to pay the filing fee, the Local Rules of Practice for the District of Nevada
21 provide: "Any person who is unable to prepay the fees in a civil case may apply to the court for
22 authority to proceed *in forma pauperis* (IFP). The application must be made on the form
23 provided by the court and must include a financial affidavit disclosing the applicant's income,

1 assets, and liabilities.” LSR 1-1. When a prisoner seeks to proceed without prepaying the filing
2 fee, in addition to filing the affidavit, the prisoner is required to submit a certified copy of the
3 trust fund account statement (or institutional equivalent) for the six-month period immediately
4 preceding the filing of the complaint. The statement must be obtained from the appropriate
5 official at the prison or detention facility where the prisoner is or was confined. 28 U.S.C. §
6 1915(a)(2).

7 When a prisoner brings a civil action IFP, the prisoner is still required to pay the full
8 amount of the filing fee. The court is required to assess, and when funds exist, collect an initial
9 partial payment of 20 percent of the greater of: (A) the average monthly deposits in the
10 prisoner’s account or (B) the average monthly balance in the prisoner’s account for the six-
11 month period immediately preceding the filing of the complaint. Thereafter, whenever the
12 prisoner’s account exceeds \$10, the prisoner must make monthly payments of 20 percent of the
13 preceding month’s income credited to the prisoners account until the filing fees are paid. The
14 funds are to be forwarded by the agency having custody of the prisoner. 28 U.S.C. § 1915(b)(1),
15 (2).

16 The regular filing fee is \$402, consisting of the \$350 filing fee and a \$52 administrative
17 fee. If an inmate does not qualify for IFP status, he must pay the full \$402 filing fee. If the
18 inmate qualifies for IFP status, the \$52 administrative fee is waived, and the inmate will only pay
19 the \$350 filing fee over time.

20 The Clerk shall **SEND** Plaintiff a copy of the instructions and application to proceed IFP
21 for an inmate and form civil rights complaint. If it is Plaintiff’s intent to file a civil lawsuit,
22 Plaintiff has **21 days** from the date of this Order to either file his completed IFP application and
23 financial certificate or pay the full \$402 filing fee, and file his complaint.

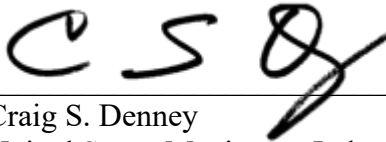
1 If he files a completed IFP application and financial certificate or pays the filing fee, the
2 court will screen the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) or 28 U.S.C. § 1915A, or
3 both. Both require dismissal of a complaint, or any portion thereof, that is frivolous or malicious,
4 fails to state a claim upon which relief may be granted, or seeks monetary relief against a
5 defendant who is immune from such relief. If the complaint is dismissed on screening, there will
6 be no refund of the filing fee, and an inmate proceeding IFP is still required to pay the \$350
7 filing fee over time.

8 If, on the other hand, Plaintiff does not seek to file a civil lawsuit, and only seeks the
9 court's assistance in registering as a felony, he should notify the court of this within **21 days** of
10 the date of this Order, and this action will be dismissed.

11 If Plaintiff fails to timely comply with this Order, this court will recommend dismissal of
12 this action.

13 **IT IS SO ORDERED.**

14 Dated: February 14, 2023

15 
16 Craig S. Denney
17 United States Magistrate Judge
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